REMARKS

This is a full and timely response to the outstanding nonfinal Office Action mailed April 7, 2005. Reconsideration and allowance of the application and presently pending claims 1-14 are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 1-14 remain pending in the present application. More specifically, claim 13 is directly amended. It is believed that the foregoing amendment adds no new matter to the present application. Furthermore, the amendment to claim 13 merely presents the claim in better form for issuance.

2. Response to Rejection of Claims 1-14 Under 35 U.S.C. §103(a)

In the Office Action, claims 1-14 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Simmonds* (U.S. Patent No. 5,893,116) in view of *Falls* (U.S. Patent No. 5,950,198). It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 1

As provided in independent claim 1, Applicants claim:

> A method of synchronizing captured data from a recorder with stored data in a storage medium, comprising the steps of:
> determining whether any set of the captured data and set of the stored data have the same first data attribute;
> further determining whether any captured data sets and stored data sets having the same first attribute have the same second and third data attributes; and
> ***deleting captured data sets having at least the same first, second, and third data attributes as a storage data set.***

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Simmonds* in view of *Falls* does not disclose, teach, or suggest at least the feature of "deleting captured data sets having at least the same first, second, and third data attributes as a storage data set," as recited and emphasized above in claim 1.

Rather, *Simmonds* discloses at most a system where a "mobile server 118 stores local replicas 120 (alternatively referred to as 'replicated resources') of a subset of the network resources 106." Col. 6, lines 57-59. As explained in *Simmonds*, "the replicas 120 stored on the computer 100 become unsynchronized with the network resources 106 stored on the servers 104 because changes have been made to one or both of them." Col. 12, lines 38-42. "In accordance with the invention, the state-based synchronization technique ***ascertains whether a replica 120 is different*** from corresponding network resource 106 stored on the server 104 ***and, if so, propagates changes from the resource to the replica and from the replica to the resource***." Col. 12, lines 53-58 (Emphasis added). Accordingly, if the replica 120 is not different from the corresponding network resource 106, *Simmonds* does not perform any actions, much less performing the action of "***deleting captured data sets*** having at least the same first, second, and third data attributes as a storage data set," as recited in claim 1. (Emphasis added).

Applicants believe that *Falls* also fails to disclose, teach or suggest at least the above-recited features of claim 1. For example, *Falls* discloses at most:

> The present invention can accommodate apparatuses and processes for ***generating file correspondency*** between a source computer and a target computer by utilizing file synchronization and/or file replication. . . . As used herein, the phrase "file correspondency" and its derivatives is intended to mean a state ***wherein a file located on a first computer matches (i.e., is substantially similar to, or, more preferably, is identical to) a second file on a second computer.***
>
> The phrase "file synchronization" and its derivatives is intended to generally mean herein a process whereby a file, which is disposed at two locations, is changed at one of the locations and these changes are then implemented at the second location. For instance, suppose a file, copies of which are located on two distinct computers, is modified at one location. The process of updating the unedited file at the first location is a form of file synchronization. In contrast, the phrase "file replication", as used herein, is intended to generally mean the process by which a master file (or a portion thereof) existing at a first location, but not a

> second location, is created at the second location ***so that two identical copies exist*** following the replication.

Col. 3, lines 30-54 (Emphasis added). As such, *Falls* fails to disclose, teach, or suggest at least the step of "deleting captured data sets having at least the same first, second, and third data attributes as a storage data set," as recited in claim 1, since *Falls* generates file correspondency ("wherein a file located on a first computer matches . . . a second file on a second computer"), which is in direct contrast to "deleting captured data sets having at least the same first, second, and third data attributes as a storage data set." (Emphasis added).

Accordingly, the proposed combination of *Simmonds* in view of *Falls* does not teach or suggest at least the claimed limitation of "deleting captured data sets having at least the same first, second, and third data attributes as a storage data set," as recited in claim 1. Therefore, a prima facie case establishing an obviousness rejection by *Simmonds* in view of *Falls* has not been made. Thus, claim 1 is not obvious under the proposed combination of *Simmonds* in view of *Falls*, and the rejection should be withdrawn for at least this reason alone.

b. Claims 2-7

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-7 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-7 contain all the steps and features of independent claim 1. Additionally and notwithstanding the foregoing reasons for allowability of claims 2-7, these claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

c. Claim 8

As provided in independent claim 8, Applicants claim:

> A computer readable medium for synchronizing captured image data with stored image data in a storage medium, comprising:
> logic for determining whether any set of the captured and set of the stored data have a same size attribute;
> logic for further determining whether captured data sets and stored data sets having the same size attribute also have at least two other data attributes that are the same; and
> ***logic for deleting captured data sets having the same size attribute and the same two other attributes.***

(Emphasis added).

Applicants respectfully submit that independent claim 8 is allowable for at least the reason that *Simmonds* in view of *Falls* does not disclose, teach, or suggest at least the feature of "logic for deleting captured data sets having the same size attribute and the same two other attributes," as recited and emphasized above in claim 8.

Rather, *Simmonds* discloses at most a system where a "mobile server 118 stores local replicas 120 (alternatively referred to as 'replicated resources') of a subset of the network resources 106." Col. 6, lines 57-59. As explained in *Simmonds*, "the replicas 120 stored on the computer 100 become unsynchronized with the network resources 106 stored on the servers 104 because changes have been made to one or both of them." Col. 12, lines 38-42. "In accordance with the invention, the state-based synchronization technique ascertains whether a replica 120 is different from corresponding network resource 106 stored on the server 104 and, if so, propagates changes from the resource to the replica and from the replica to the resource." Col. 12, lines 53-58. Accordingly, if the replica 120 is the same as the corresponding network resource 106, *Simmonds* does nothing to the replica 120. Therefore, *Simmonds* fails to disclose, teach, or suggest the step of "logic for ***deleting captured data sets*** having the same size attribute and the same two other attributes," as recited in claim 8. (Emphasis added).

Applicants believe that *Falls* also fails to disclose, teach or suggest at least the above-recited features of claim 8. For example, *Falls* discloses at most:

> The present invention can accommodate apparatuses and processes for generating file correspondency between a source computer and a target computer by utilizing file synchronization and/or file replication. . . . As used herein, the phrase "file correspondency" and its derivatives is

> intended to mean a state wherein a file located on a first computer matches (i.e., is substantially similar to, or, more preferably, is identical to) a second file on a second computer.
>
> The phrase "file synchronization" and its derivatives is intended to generally mean herein a process whereby a file, which is disposed at two locations, is changed at one of the locations and these changes are then implemented at the second location. For instance, suppose a file, copies of which are located on two distinct computers, is modified at one location. The process of updating the unedited file at the first location is a form of file synchronization. In contrast, the phrase "file replication", as used herein, is intended to generally mean the process by which a master file (or a portion thereof) existing at a first location, but not a second location, is created at the second location ***so that two identical copies exist*** following the replication.

Col. 3, lines 30-54 (Emphasis added). As such, *Falls* fails to disclose, teach, or suggest at least the feature of "logic for deleting captured data sets having the same size attribute and the same two other attributes," as recited in claim 8, since *Falls* generates file correspondency ("wherein a file located on a first computer matches . . . a second file on a second computer"), which is in direct contrast to "deleting captured data sets having the same size attribute and the same two other attributes." (Emphasis added). Accordingly, *Falls* is legally inadequate to cure the deficiencies of the *Simmonds* reference.

Accordingly, the proposed combination of *Simmonds* in view of *Falls* does not teach or suggest at least the claimed limitation of "logic for deleting captured data sets having the same size attribute and the same two other attributes," as recited in claim 8. Therefore, a prima facie case establishing an obviousness rejection by *Simmonds* in view of *Falls* has not been made. Thus, claim 8 is not obvious under the proposed combination of *Simmonds* in view of *Falls*, and the rejection should be withdrawn for at least this reason alone.

d. Claims 9-12

Because independent claim 8 is allowable over the cited art of record, dependent claims 9-12 (which depend from independent claim 8) are allowable as a matter of law for at least the reason that the dependent claims 9-12 contain all the features of independent claim 8. Additionally and notwithstanding the foregoing reasons for allowability of claims 9-12, these claims recite further features and/or

combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

e. Claim 13

As provided in independent claim 13, Applicants claim:

> A system for synchronizing captured image data from a camera with stored image data in a storage medium, comprising:
> means for determining whether any two sets of the captured and stored image data have a same size attribute;
> means for further determining whether any two sets of captured and stored data having the same size attribute also have at least two other data attributes that are the same; and
> ***means for deleting captured data sets having the same size attribute and the same two other data attributes.***

(Emphasis added).

Applicants respectfully submit that independent claim 13 is allowable for at least the reason that *Simmonds* in view of *Falls* does not disclose, teach, or suggest at least the feature of "means for deleting captured data sets having the same size attribute and the same two other data attributes," as recited and emphasized above in claim 13.

Rather, *Simmonds* discloses at most a system where a "mobile server 118 stores local replicas 120 (alternatively referred to as 'replicated resources') of a subset of the network resources 106." Col. 6, lines 57-59. As explained in *Simmonds*, "the replicas 120 stored on the computer 100 become unsynchronized with the network resources 106 stored on the servers 104 because changes have been made to one or both of them." Col. 12, lines 38-42. "In accordance with the invention, the state-based synchronization technique ascertains whether a replica 120 is different from corresponding network resource 106 stored on the server 104 and, if so, propagates changes from the resource to the replica and from the replica to the resource." Col. 12, lines 53-58. Accordingly, if the replica 120 is the same as the corresponding network resource 106, *Simmonds* does nothing to the replica 120. Therefore, *Simmonds* fails to disclose, teach, or suggest the element of "means for ***deleting captured data sets*** having the same size attribute and the same two other data attributes," as recited in claim 13. (Emphasis added).

Applicants believe that *Falls* also fails to disclose, teach or suggest at least the above-recited features of claim 13. For example, *Falls* discloses at most:

> The present invention can accommodate apparatuses and processes for generating file correspondency between a source computer and a target computer by utilizing file synchronization and/or file replication. . . . As used herein, the phrase "file correspondency" and its derivatives is intended to mean a state wherein a file located on a first computer matches (i.e., is substantially similar to, or, more preferably, is identical to) a second file on a second computer.
>
> The phrase "file synchronization" and its derivatives is intended to generally mean herein a process whereby a file, which is disposed at two locations, is changed at one of the locations and these changes are then implemented at the second location. For instance, suppose a file, copies of which are located on two distinct computers, is modified at one location. The process of updating the unedited file at the first location is a form of file synchronization. In contrast, the phrase "file replication", as used herein, is intended to generally mean the process by which a master file (or a portion thereof) existing at a first location, but not a second location, is created at the second location ***so that two identical copies exist*** following the replication.

Col. 3, lines 30-54 (Emphasis added). As such, *Falls* fails to disclose, teach, or suggest at least the feature of "means for deleting captured data sets having the same size attribute and the same two other data attributes," as recited in claim 13. Accordingly, *Falls* is legally inadequate to cure the deficiencies of the *Simmonds* reference.

Accordingly, the proposed combination of *Simmonds* in view of *Falls* does not teach or suggest at least the claimed limitation of "means for deleting captured data sets having the same size attribute and the same two other data attributes," as recited in claim 13, since *Falls* generates file correspondency ("wherein a file located on a first computer matches . . . a second file on a second computer"), which is in direct contrast to "deleting captured data sets having the same size attribute and the same two other attributes." (Emphasis added). Therefore, a prima facie case establishing an obviousness rejection by *Simmonds* in view of *Falls* has not been made. Thus, claim 13 is not obvious under the proposed combination of *Simmonds* in view of *Falls*, and the rejection should be withdrawn for at least this reason alone.

f. Claim 14

Because independent claim 13 is allowable over the cited art of record, dependent claim 14 (which depends from independent claim 13) is allowable as a matter of law for at least the reason that the dependent claim 14 contain all the features and elements of independent claim 13. Additionally and notwithstanding the foregoing reasons for allowability of claim 14, this claim recites further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.

By: _____
Charles W. Griggers
Reg. No. 47,283